

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 14TH STREET, N.W. SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	
)	DATE: March 4, 2003
Pete Ross 2002 Committee)	
Pete Ross)	
Catherine Cahill, Treasurer)	DOCKET NO.: PI 2002-104
)	

ORDER

Statement of the Case

This matter arises out of a complaint filed by Richard Bianco (complainant), 600 Water Street, SW, No. 3-6, Washington, D.C., 20024, alleging violations of the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974, as amended, D.C. Official Code Sections 1-1101.01 et seq. (the Act). Complainant alleged that the Pete Ross 2002 Committee (the Committee), Pete Ross (Ross), and the Committee treasurer, Catherine Cahill (treasurer), 1712 Surrey Lane, N.W., Washington, D.C., 20007, violated D.C. Official Code Section 1-1102.06(a), when its August 10, 2002 Report of Receipts and Expenditures (the August 10 Report) failed to include alleged debts owed by the Committee.

Issues

1. Whether the Committee failed to properly list its debts on the August 10 Report, as required by D.C. Official Code Section 1-1102.06(a).
2. Whether the Committee allegedly distributed campaign literature that failed to disclose, as required by D.C. Official Code Section 1-1102.10, the following identifying language: “. . .the words ‘paid for by’ followed by the name and address of the payer.”

Background

Complainant facsimiled his “pleading” on August 30, 2002. See Exhibit A. He stated therein that the Committee’s August 10 Report, on its face, was erroneous because there were alleged omitted expenditures for posters and the ending filing date was reflected as “July 31, 2002”; and, that the Committee was circulating campaign literature that failed to indicate the requisite disclosure language.

A preliminary investigation was initiated on September 19, 2002, with the expectation that complainant would “perfect” his complaint because complainant had failed to sign and verify his pleading under oath. Nothing further was received from complainant.

Nevertheless, letters were dispatched to the complainant and the Committee requesting any information relevant to the instant matter no later than September 30, 2002. The Committee’s treasurer responded by notarized letter on September 30, 2002, that the Report was complete as of July 31, 2002, her believed ending date. Upon being apprised by staff of the Office of Campaign Finance (OCF) that the ending date was August 10, 2002, the treasurer circled “August 10, 2002” Report and submitted same because, she averred, the Committee had incurred no other expenses.

Moreover, Ross stated in his response dated September 26, 2002, that the invoice for the posters was dated August 20, 2002; a deposit of \$2,750 was paid on August 17, 2002; and, the expense was listed in the Report of Receipts and Expenditures dated September 3, 2002. Accordingly, there were not any unreported expenditures for the August 10 Report.

With regard to circulating campaign literature without the requisite disclosure language, the Committee was notified of the alleged infractions on the evening of September 5, 2002 of a circular that failed to include the disclosure requirement. According to Ross, there was an oversight pertaining to a letter that was duplicated from photocopy machine. By the morning of the next day, September 6, 2002, a corrected circular, with the appropriate disclosure language inserted, had been facsimiled to OCF. Ross submitted a notarized statement thereto on September 26, 2002.

The inquiry into this matter was completed by September 30, 2002. Nonetheless, at a meeting of the Board of Elections and Ethics held on January 8, 2003, the undersigned, who was also serving as Acting Director, requested an extension, pursuant to D.C.

Official Code Section 1-1103.02(c), within which to submit the final order in this matter. The Board granted the request.

The scope of the OCF review encompassed verifying the pertinent submitted information; examining applicable OCF records; and interviews.

Relevant Statutory and Regulatory Provisions

D.C. Official Code Section 1-1102.06(a) states, in part, “[R]eports [of receipts and expenditures by political committees and candidates] shall be complete as of such date as the Director may prescribe[.]”

D.C. Official Code Section 1-1102.10 states, in part, “All newspaper or magazine advertising, posters, circulars, billboards. . .and other printed matter with reference to or intended to or intended for the support or defeat of a candidate. . .for nomination or election to any public office. . .shall be identified by the words ‘paid for by’ followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appears.”

At 3 D.C.M.R. Section 3701.2 it reads, “Each complaint shall include the following:
. . .(d) [v]erification of the complaint under oath[.]”

Summary of Evidence

In support of his contention, complainant submitted an unverified pleading. Ross and the Treasurer submitted notarized responses which explained and clarified the allegations. See Exhibits B-C. OCF relied upon the confirmation and verification by its investigator of all statements given under oath. OCF also relied upon information gleaned by the undersigned during interviews with Ross and the Treasurer.

Findings of Fact

Having reviewed the allegations, the responses and the entire record, I find:

1. Complainant facsimiled his “pleading” on August 30, 2002 and failed to sign and verify his submission under oath. See Exhibit A.
2. The submission herein is not a complaint.

Conclusions of Law

Based upon the record and evidence, I therefore conclude:

1. Allegations of violations of any law within OCF jurisdiction must be made by written complaint and, inter alia, signed and verified under oath. See 3 D.C.M.R. Section 3701.2(d).
2. Complainant's failure to adhere to the regulatory framework with regard to the presentation of complaints in OCF rendered his submission null and void.

Recommendation

I hereby recommend the Director to dismiss this matter.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that this matter be dismissed.

This Order may be appealed to the Board of Elections and Ethics within 15 days from issuance.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing order.

S. Wesley Williams
Investigator

cc: Pete Ross
1712 Surrey Lane, N.W.
Washington, D.C. 20007

Committee to Re-Elect Senator Strauss
Richard J. Bianco
Treasurer
601 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004

NOTICE

Pursuant to 3 DCMR § 3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14th Street, NW, Washington, D.C. 20009.